



March 8, 2011

Via ECF

The Honorable Magistrate Judge James Orenstein
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Room 456 North
Brooklyn, NY 11201

Re: *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*
No. 1:05-MD-1720 (JG)(JO)

Dear Magistrate Judge Orenstein:

This firm represents Class Plaintiffs in the above-referenced action. We are writing to bring to the Court's attention supplemental authority in support of Class Plaintiffs' Memorandum of Law in Opposition to Defendants' Motions to Dismiss First Amended Supplemental Class Action Complaint and Second Supplemental Class Action Complaint, ECF No. 1224 ("Memorandum"). The supplemental authority supports Class Plaintiffs' opposition to Defendants' motion to dismiss Class Plaintiffs' fraudulent conveyance claims under New York Debtor and Creditor Law ("NYDCL") §§275 and 276. *See* Memorandum at 32-45.

On February 24, 2011, the United States Bankruptcy Court for the Southern District of New York denied defendants' motion to dismiss trustee-plaintiff's fraudulent conveyance claims under NYDCL §§275 and 276 in *In re Bernard L. Madoff Inv. Securities LLC*, Bankr. No. 08-01789 (BRL), Adv. No. 09-1172 (BRL), 2010 WL 5841402 (Bankr. S.D.N.Y. Feb 24, 2011). Class Plaintiffs are filing a copy of the court's opinion with this letter for the Court's convenience.

Bernard L. Madoff Inv. Securities discusses (1) sufficient allegations of actual fraudulent intent (NYDCL §276) under Fed. R. Civ. P. 9(b) at 2010 WL 5841402, at *6-*9; (2) sufficient allegations of constructive fraudulent intent (NYDCL §275) under Fed. R. Civ. P. 8(a) at *id.*, *9-*12; and (3) "fair consideration" under NYDCL §275 at *id.*, *12.

Respectfully submitted,

SCOTT+SCOTT LLP

/s/ Christopher M. Burke

Christopher M. Burke

cc: Counsel for all parties (via CM/ECF and Lexis-Nexis File & Serve)
Enclosure

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